

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
March 23, 2015**

Mr. Thomas Franko called the Special Meeting of the Planning Board to order at 7:30 P.M.

Adequate notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form for a special meeting on March 23, 2015, was published in the *Chatham Courier* and the *Morris County Daily Record*, was posted on the bulletin board in the main hallway of the Municipal Building, and was filed with the Township Clerk.

Oaths of Office

Amanda C. Wolfe, Esq. administered the oath of office for Mr. Ciccarone.

Roll Call

Answering present to the roll call were Mr. Franko, Mr. Hurring, Mr. Brower, Mr. Ciccarone, Ms. Hagner, Mr. Ritter, Mrs. Swartz, Mr. Saluzzi, Mr. Travisano and Mr. Nelson. Mr. Murray was absent.

Also present were Board Engineer John Ruschke, Township Planner Frank Banisch and Planning Board Attorney Amanda C. Wolfe, Esq.

Approval of Minutes

Mr. Brower moved to approve the minutes of the November 17, 2014 and January 12, 2015 meetings. Mr. Hurring seconded the motion. The motion carried with abstentions from Mr. Ciccarone on the January 12, 2015 minutes and Mr. Travisano for the November 17, 2014 minutes.

Letter from Morris County

Mr. Franko said that he was copied on a letter from the Morris County Freeholders stating that the Department of Planning and Public Works is developing a new circulation plan for the County's Master Plan.

Hearing

Plan: 14-93-5 (October 10, 2014) OZ – Custom Builders, LLC- 35 Rose Terrace, Block 93 Lot 5, Minor Subdivision w/variances. Completeness review. Revision on 12/30/2014. (Complete on 1/20/2015) Escrow #79429

For the benefit of the public in attendance, Mr. Franko provided a synopsis of typical Planning Board procedures. He also offered the Board's condolences to Mr. Shaffer on the passing of his business partner, Brian Burns, Esq.

Steve Shaffer, an attorney representing the applicant, presented the application. Mr Shaffer stated that the property at 35 Rose Terrace is in the R3 zone. One of the proposed subdivided lots would have access from Chatham Street, and the other would have access from Rose Terrace. The existing lot is also the largest lot in the neighborhood, and has a single-family home. There are not any environmental constraints on the property. The proposal is to subdivide the lot and have a single-family home built on each lot. There will be some design waivers and variances requested, and Mr. Shaffer said that they will show that the variances are justified. One of the variances will be for lot area, front yard setback, and lot width for one of the two properties. Mr. Shaffer also said that the application will show that the proposed lots will fit within the character of the neighborhood. One of the lots would have a lot depth shortage because of Chatham Street. Some non-conforming conditions would also be eliminated with this application, and the application would bring the proposed lot within greater conformity with the neighborhood.

Kevin Page was sworn in to give testimony, and provided his qualifications. Mr. Page is both a licensed professional engineer and a licensed public planner. He was accepted as an expert witness.

Mr. Page presented an engineering plan of the minor subdivision. The current property is approximately 29,000 square feet. A plotting map showing properties within 500 feet was also presented. Mr. Page also compared the zoning regulations of the R3 zone with the R4 zone of Chatham Borough which abuts the property. He also presented an aerial view of the proposed subdivision with the proposed lots delineated. Mr. Page also noted the transition on Rose Terrace of older homes to newer and renovated homes.

Mr. Ciccarone asked Mr. Page to describe the neighborhood across the street on Rose Terrace, as the reality is not reflected on the tax map. Mr. Page described how PSE&G had sold land from their utility right-of-way to the properties across the street which made the properties larger.

For the proposed lots, Mr. Page said that there is a provision in the Township's ordinances that lots should be planned to maintain established front yard setbacks, and the proposed setback for the Rose Terrace property would be consistent with the other houses in the neighborhood.

Mr. Page also reviewed with the Board various requirements with which the proposed lots would conform and comply with current regulations. He also addressed building coverage and impervious coverage, and the application proposes less building coverage and impervious than what is allowed. Mr. Page also commented that the proposed lots are very developable, as there are already utilities available and there are not any adverse conditions such as wetlands or steep slopes.

Engineer Ruschke asked if Mr. Page's testimony is that the zoning lines could have been drawn differently so that the subject property would have fallen within the R4 zone. Mr. Page said that when properties are zoned into nonconformity, it is very expensive for applicants to go before boards. Engineer Ruschke said that at the present time, he could appreciate the argument more if Chatham Street had been fully improved as a roadway. Mr. Page said that the exhibits used are to show the true character of the neighborhood. Mr. Page described conceptual houses that would be built on the subdivided lots.

Mrs. Swartz suggested that a site visit would be necessary for this application, and Mr. Franko agreed. A site visit was scheduled for April 4, 2015 at 9:00 AM.

Mr. Page addressed comments in a memorandum from Mr. Ruschke's office. Mr. Brower suggested that there should be notations for the potential buyers to let them know the costs associated with applying for variances for any work they might want to have done on the property.

Mr. Franko reiterated that the site visit will be scheduled for April 4, 2015. The hearing will be continued to the April 20, 2015 meeting.

Mr. Franko opened the floor to the public to ask questions.

1. Wojciech Rosnowski, 132 Chatham Street, said that when he purchased his property, he was told that the applicant property could not be subdivided. He questioned how emergency vehicles would be able to turn around if the subdivision is approved. Dr. Rosnowski also raised a safety concern of children using the bike path and then getting hit by cars backing out of the proposed driveway for the new lot. Mrs. Swartz noted that the Board received Dr. Rosnowski's letter for review. Mr. Travisano asked if it is customary for applications to be reviewed by emergency services. Mr. Ruschke said that no comments have been received, but he can ask them to review the application.
2. Charles Pagano, 40 Edgewood Road, asked about the number of trees that would be taken down on the proposed Chatham Street lot. Ms. Hagner said that the tree ordinance only regulates trees over a certain size, therefore some trees might be taken down that are not required to be marked. Mr. Shaffer said that due to the number of trees that will remain, the property will be in compliance with the tree ordinance, and trees will not need to be replaced.
3. Eileen Scanlon, 49 Meadowbrook Road, said that she is concerned about stormwater runoff. She is also concerned about tree removal. Mrs. Scanlon also said that she wants to be sure that drainage will be properly addressed. Mr. Page said that the application to the Planning Board has to demonstrate that proper drainage is possible, and Mr. Ruschke's office will determine if the drainage requirements have been met. Mr. Brower noted that Mr. Ruschke's office has to be satisfied that there will not be any drainage issues before the building permits would be issued.

Mrs. Scanlon also asked about the standard of proof for a variance. Mr. Shaffer said that there are positive and negative criteria that have to be met. The conditions are also set by statute. Mr. Shaffer said that at the continuation of the hearing, the justifications for the variances will be addressed by the applicant's public planner.

4. John Reichard, 49 Meadowbrook Road, said that the notice that was sent out was very specific about certain variances, and it indicated that other variances may be required as part of this application. Mr. Reichard asked about the process and when all potential variances will be known. Mr. Franko said that after all the testimony has been given, the Board will decide what variances will be granted, which will be documented in writing. He also noted that all proceedings of the Planning Board are open to the public. Mr. Page noted that certain variances are included in the application, and others may be required by

the Board. Any substantive additional variances would require additional notice to the neighbors. Mrs. Scanlon asked about the notice process, and said that one of her neighbors did not receive the notice. Mr. LaConte said that a list of property owners within 200 feet is prepared based on the tax record. Mrs. Scanlon said that there has been turnover in the neighborhood recently. Mr. Ciccarone said that it can take the County months to notify the Township if any changes. Mr. Shaffer said that they are statutorily required to comply with the certified list with which they were provided. Mr. Reichard reiterated the importance of getting the drainage right. Mr. Brower noted that the Board would not make any deals with the developer without the public having the opportunity to review and question the application, and he suggested that the neighbors attend the site visit and future meetings on this application. Mr. LaConte noted meeting agendas are posted on the Township website.

5. Karen Torrente, 32 Rose Terrace, said that the end of the bike path goes directly into the street. She also said that change can be difficult, but it can be ok as long as the guidelines are followed.
6. Charles Pagano said that the proposed Rose Terrace lot is not the concern. He is concerned about the proposed Chatham Street lot, which would result in the development of a presently wooded area. Mr. Page said that the proposed house is not out of scale with neighboring houses. Mr. Shaffer noted that property owners have a right to develop their properties within a reasonable amount.
7. Justin Boyd, 55 Meadowbrook Road, asked how many trees would come down if a patio were added to the back of the proposed Chatham Street house. Mr. Page said that there are not any plans to have a deck or patio. However, should his client decide to put in a patio, he will be able to assess how many trees would need to be removed. Mr. Shaffer said that the property will be compliant with the Township's tree ordinance.
8. Dot Stillinger, Chatham Township Environmental Commission chairwoman, asked about the slope of the property. Mr. Page said that there is a 10 foot drop over a 250 feet, which is a 4% slope. He also said that this is a very modest slope. Mrs. Stillinger asked if anyone has investigated if there are wetlands across the street from the subject property. Mr. Shaffer said that the applicant's property has been investigated. Mr. Page read from the report as to what the conditions are.

The public hearing was closed.

Mr. Nelson moved to adjourn at 9:21 PM. Mr. Hurring seconded the motion, and it carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary